

**VIRGINIA BOARD OF MEDICINE  
LEGISLATIVE COMMITTEE**

**MINUTES**

**JANUARY 24, 2003**

A public hearing was held on proposed amendments to physician assistant regulations to allow voluntary practice by out-of-state physician assistants. There was no public comment.

The Legislative Committee chaired by J. Kirkwood Allen met on Friday, January 24, 2003, at 8:30 a.m., at the Department of Health Professions ("DHP"). There was no quorum for this meeting.

**MEMBERS PRESENT:** J. Kirkwood Allen, Chair  
Carol E. Comstock, RN  
Rev. LaVert Taylor

**MEMBERS ABSENT:** Robert J. Bettini, MD  
Joseph A. Leming, MD  
Sue Ellen B. Rocovich, DO  
Clarke Russ, MD

**STAFF PRESENT:** William L. Harp, MD, Executive Director  
Ola Powers, Deputy Executive Director of Licensure  
Karen W. Perrine, Deputy Executive Director of Discipline  
Kate Nosbisch, Deputy Executive Director, Physician Profile  
Robert Nebiker, Director, DHP  
Elaine Yeatts, DHP Senior Regulatory Analyst  
Deborah A. Ordiway, Recording Secretary

**GUESTS PRESENT:** Bill McKelway, *Richmond Times-Dispatch*; Scott Johnson, Medical Society of Virginia; Harry C. Beaver, President of the Virginia Board of Medicine; and Dianne Reynolds-Cane, MD, Secretary/Treasurer of the Virginia Board of Medicine

**ADOPTION OF AGENDA**

Because there was no quorum, the agenda could not be adopted and no action was taken on any agenda item. However, the Committee reviewed each item and made general comments.

**PUBLIC COMMENT ON AGENDA ITEMS**

There was no public comment.

## **APPROVAL OF MINUTES OF NOVEMBER 15, 2002**

Because there was no quorum, the minutes could not be approved.

### **#1 Respiratory Care Regulations**

A chart showing all current Board of Medicine regulatory actions was distributed. Mrs. Powers stated that the regulations for respiratory care practitioners requires attestation of 160 hours of active practice to renew their license. On behalf of the Advisory Board for Respiratory Care, Mrs. Powers suggested amending 18 VAC 85-40-60(A)(3) to read "or present other documented evidence acceptable to the Board that the practitioner is prepared to resume practice." This amendment would provide a possible remedy for practitioners who have not met the active practice requirement, in that there may be some other avenue to demonstrate competency other than active practice.

### **#2 Office-Based Anesthesia Regulations**

A copy of the proposed regulations on office-based anesthesia was distributed. The Ad Hoc Committee on Office-Based Anesthesia had met on January 23, 2003 to review the comments that were received. The Ad Hoc Committee recommended several changes to the proposed regulations.

The Legislative Committee suggested that 18 VAC 85-20-320(A)(3) be changed to read as follows: "Levels of sedation or anesthesia referred to in this chapter shall relate to the level of sedation or anesthesia intended by the practitioner in the anesthesia plan."

### **#3 Legislative Update**

Mr. Nebiker distributed a copy of House Bill 1441. This bill provides for a confidential consent agreement, a minimum period for reinstatement of a license after revocation of that license by a board, improved reporting by the department on the performance of all health regulatory boards regarding disciplinary activity, investigators in the department to be able to issue summonses for cases of unlicensed activity, improved reporting requirements for health care institutions to report on instances of conduct that violates laws and rules governing all health regulatory boards in the department and enforcement mechanisms, mandatory citizen representation on the Executive Committee of the Board of Medicine, and a change in the threshold of action by this board from simple negligence to a standard of intentional negligence or negligence that might cause harm.

Mr. Nebiker stated that the confidential consent agreement shall be used only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner. A board shall not enter into a confidential consent agreement if there is probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger to the health and welfare of his patients or the public. The bill limits a

confidential agreement to two times within a 10-year period where such violation may involve a standard of care violation.

Mr. Nebiker stated that implementing this bill would have a cost associated with it. For the Board of Medicine the renewal fee for physicians would probably go from \$260 to \$333.

Ms. Yeatts distributed a copy of an informational bill tracking report and reviewed several with the Committee.

## **ADJOURNMENT**

With no further business to discuss, the Legislative Committee of the Board of Medicine adjourned.

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J. Kirkwood Allen  
Chair

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William L. Harp, MD  
Executive Director

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Deborah A. Ordiway  
Recording Secretary